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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,036	11/20/2000	Hortense W. Dodo	077281-0104	6841

22428 7590 10/15/2003

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
GIBBS, TERRA C	

ART UNIT	PAPER NUMBER
1635	

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/715,036	DODO ET AL.	
	Examiner	Art Unit	
	Terra C. Gibbs	1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *3* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *21-26*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☒ Other: *See Continuation Sheet*

Continuation of 5. does NOT place the application in condition for allowance because: This application contains claims 1-20 drawn to an invention nonelected with traverse in Paper No. 12. The nonelected claims must be canceled or other appropriate action (37 CFR 1.144) See MPEP j 821.01. Additionally, claims 21-26 would remain rejected under 35 U.S.C. 103(a) for the reasons of record set forth in the previous Office Action.

Continuation of 10. Other: The 35 U.S.C. 103(a) rejection against claims 21-26 is maintained for the reasons of record set forth in the previous Office Action mailed June 4, 2003. Applicants argue that the reasons made of record fail to establish a reason for combining the cited art and the combination of references do not render the present invention obvious. More specifically, Applicants argue that the Examiner has not provided a reason of record for why it would be desirable to combine the teachings of Tada et al. with Kleber-Janke et al. Applicants further argue that the Examiner has failed to provide a reason why one skilled in the art would be motivated to identify a homologous region from more than one Ara h allergen gene and then clone an identified Ara h homologous region in the antisense orientation into a vector for peanut transformation. Applicants also argue that neither Tada et al. nor Kleber-Janke et al. renders the present invention obvious. Applicants argue that neither reference discloses a method for producing a transgenic peeanut plant with reduced allergen content in the seed. Applicants arguments have been fully considered but are not found persuasive because as stated in the previous Office Action, one of skill in the art would have been motivated to identify a homologous region from more than one Ara h allergen gene because Kleber-Janke et al. explicitly teach several homologous regions common between more than one Ara h allergen gene. As also argued in the previous Office Action, one of skill in the art would have been motivated to clone the identified Ara h homologous region taught by Kleber-Janke et al in the antisense orientation into a vector for peanut transformation since Tada et al. teach a method for antisense suppressionof a 16 kKa allergen in rice seeds by transformation and clearly provide motivation to use the antisense strategy in other crop plants. Therefore, since Ara h genes are known allergen genes in peanut grain, it would have been obvious to one of ordinary skill in the art to identify a homologous region from more than one Ara h allergen gene and then clone an identified Ara h homologous region in the antisense orientation into a vector for peanut transformation using the teachings of Kleber-Janke et al. combined with the teachings and motivation of Tada et al.

KAREN A. LACOURCIERE, PH.D
PRIMARY EXAMINER